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*Attorneys for Plaintiff*

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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JOSHUA CHATWIN,

Plaintiff,  
v.

DRAPER CITY; DRAPER CITY POLICE  
DEPARTMENT; POLICE CHIEF MAC  
CONNOLE; OFFICER J. PATTERSON, in  
his individual and official capacity;  
OFFICER DAVID HARRIS, in his  
individual and official capacity; OFFICER  
HEATHER BAUGH, in her individual and  
official capacity; and JOHN DOES 1-10,

Defendants.

RESPONSE AND OBJECTION TO  
DEFENDANTS' RULE 34 REQUEST FOR  
ENTRY ONTO PREMISES

Civil No. 2:14-cv-375  
Judge Dale A. Kimball

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Plaintiff, by and through his counsel, hereby objects to Defendants' Rule 34 Request for Entry onto Premises, pursuant to Federal Rule of Civil Procedure 34(b)(2)(B) and (C) as follows:

### **OBJECTIONS**

Defendants served Plaintiff's counsel a Rule 34 Request for Entry onto Premises dated January 5, 2016, which requests

entry onto property controlled by Plaintiff, namely, the front driveway and front yard of the property located at 12534 South 150 East, Draper, Utah, so that Defendants, their representatives, employees, and other individuals retained by Defendants, may inspect, measure, survey, and photograph the property. Defendants wish to enter the property on February 11, 2016, beginning at 10:00 a.m. and continuing until complete. This entry will include the temporary placement of one or more vehicles and persons in the front driveway of the property in order to recreate the placement of the vehicles and persons during the incident of May 18, 2010.

In the Scheduling Order entered by this Court, and pursuant to deadlines agreed upon by counsel, the close of fact discovery occurred on December 15, 2015. The Rule 34 Request for Entry was served twenty-one (21) days after the close of discovery. Plaintiff objects to Defendants' request on the grounds that it is not timely.

Additionally, measurements and photographs were taken by Defendants at the time of the May 18, 2010, incident (documents produced by defendant to plaintiff during discovery DRAPER-CHT-4764-4770). We now sit six years later, at a different time of year, with different weather conditions, and a more mature and changed landscape. Plaintiff objects to Defendants' request as being overly burdensome and duplicative.

Finally, the property at issue is owned by a non-party to this Complaint. Plaintiff objects to Defendants' request as it lacks jurisdiction and requires permission not in Plaintiff's authority to grant.

All other objections not raised herein are reserved and may be raised in the event a motion to compel is filed.

**RESPONSE**: Notwithstanding the foregoing objections, Plaintiff is not an owner, is not on the deed, and claims no ownership in the address in Defendants' request. As such, Plaintiff does not have the ability to allow access to the property.

DATED this 4th day of February 2016.

CLYDE SNOW & SESSIONS

/s/ Lisa A. Marcy

Lisa A. Marcy

*Attorneys for Plaintiff Joshua Chatwin*

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of February 2016, I caused a true and accurate copy of the foregoing **Response and Objection to Defendants' Rule 34 Request for Entry onto Premises** to be filed via the Court's ECF system, which in turn sent copies to counsel of record in accordance with the Court's protocols.

/s/ Michelle Carter